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IN THE

Supreme Court of the United States

OCTOBER TERM 1936

No. 293

WEST COAST HOTEL COMPANY, a corporation,
Appellant,

vs.

ERNEST PARRISH and ELSIE PARRISH, his wife,
Appellees

APPELLEE'S BRIEF ON THE LAW

C. B. CONNER,
Attorney for Appellees.

SAM M. DRIVER,
Counsel.

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BRIEF OF APPELLEES

STATEMENT

The appellant has set forth the correct statement in regard to the proceedings had in this matter, and we find no fault in that regard. The appellees brought an action in the Superior Court of Chelan County, Washington, for the recovery of wages claimed due, and the trial Court held that the Minimum Wage Law for Women, as passed by the Legislature of the State of Washington in the year 1913, contravenes the XIV Amendment of the Constitution of the United States. From that decision, these appellees appealed to the Supreme Court of the State of Washington, and the trial Court's judgment was reversed. The controlling authority relied upon by the trial Court is the case of *Adkins v. Children's Hospital* 261 U. S. 525.

ISSUE

The question involved and the issue to be determined is whether this legislative act is a valid and reasonable exer-

cise of the police power of the State of Washington. The Constitution does not prohibit states from regulating matters pertaining to public welfare, but simply requires those matters be exercised in a manner reasonably tending to that end. (*Nebia v. New York*, 291 U. S. 592). No act of the Legislature is presumed to be upon improper grounds, and the burden rests upon him who assails the exercise of the power to show that such exercise is improper. (*Missouri Pacific Railway Co. v. Norwood*, 283 U. S. 249; *Borden's Farm Product v. Baldwin*, 293 U. S. 194).

It is within the province of the Legislature, and a proper legislative function, to determine what matters and conditions pertaining to the public welfare require attention and the remedy to be used for such matters. (*Radice v. New York*, 264 U. S. 292). In passing the minimum wage law the Legislature of the State of Washington had under consideration the needs of the people of that state or in other words, the general welfare of the people of the State of Washington, and in construing that law the Supreme Court of the State of Washington approved the findings of the Legislature and determined that the act passed was in the interest of the general welfare of the community. (*Larsen v. Rice*, 100 Wash. 642).

In determining the constitutionality of this act, the Court does not consider or inquire into the wisdom thereof nor the economic conditions of the State of Washington which induced the passage of the law, and unless the act is entirely beyond the legislative power, it is not subject to objections from a constitutional point. (*Nebia v. People*, 291 U. S. 502; *Northern Securities Company v. United States*, 193 U. S. 197; *Atkins v. Kansas*, 191 U. S. 297; *O'Gohrman and Young v. Hartford Fire Insurance Co.*, 282 U. S. 251—257 and 58).

It is insisted by the appellees that the minimum wage law in question does not operate in a unreasonable man-

ner, and that it is within the province of the State Legislature to determine whether this law is an economic necessity, or in other words, whether or not it was a reasonable and proper remedy for evils found by the Legislature to exist.

ADKINS CASE

The sustaining of the decision of the Supreme Court of the State of Washington in this matter is not in conflict with the decision of this Court in the case of *Adkins v. Children's Hospital.* This law was passed by virtue of the reserve police power ot the State of Washington, and having received the approval of the highest Court of the State of Washington is entitled to approval by the Supreme Court of the United States. The Adkins Case construed an act of Congress which had received the disapproval of the highest Court of the District of Columbia, and we, of course, draw the conclusion that the act of Congress not having received the approval of that Court was not a reasonable and proper remedy for a condition existing in the District of Columbia. If the act of Congress so construed had been upheld by the highest Court of the District of Columbia, then this Court would accept that judgment in the absence of any facts to support a contrary conclusion. (*Adkins v. Children's Hospital*, 261 U. S. 525; *Bunting v. Oregon*, 243 U. S. 426).

The presumption of constitutionality must prevail in the absence of any factual foundation in the record for declaring the act unconstitutional. In this case there is no indication of anything of the kind, and the act of the Legislature, with the approval of the highest Court of the State of Washington, conclusively shows that an evil existed for which this act is a proper remedy. (*O'Gohrman and Young v. Hartford Fire Insurance Co.* 282 U S. 251). That the decision in the instant case by the State of Washington is not inconsistent with other decisions of the Supreme Court of the United States is amply shown

by the record. In the Bunting Case (*Bunting v. Oregon*, 243 U. S. 426) the Oregon law was upheld as having been approved by the Supreme Court of that state as a law necessary for the preservation of the health of employees. This is also true in regard to the statute passed by the State of New Jersey regulating certain wages. (*O'Gohrman and Young v. Hartford Fire Insurance Company*, 282 U. S. 251).

While it is true that the Arizona and Arkansas statutes were declared unconstitutional (*Murphy v. Sardell*, 269 U. S. 530; *Donham v. West Nelson Manufacturing Company*, 273 U. S. 657) by this Court, those decisions follow with approval the decision of the Supreme Court of the States of Arizona and Arkansas. The same situation applies to the law of the State of New York. In that state the law similar to the one under consideration here failed to receive the approval of the highest Court of that jurisdiction, and this Court approved and sustained the act of the Supreme Court of the State of New York (*Morehead v. People of the State of New York*, 56 S. Ct. 918) but in no case has a decision of the highest Court of a State upon the exercise of a police regulation by fixing minimum wages been reversed by the Supreme Court of the United States, and therefore we are forced to the conclusion that there being nothing in this record to indicate that the action of the Legislature did not promote the general welfare of the people of the State of Washington or was an unreasonable exercise of police power, it must be approved.

This statute being valid under the XIV Amendment of the Constitution of the United States as a proper police regulation should be approved and the decision of the Supreme Court of the State of Washington affirmed.

Respectfully submitted,

C. B. CONNER,
SAM M. DRIVER.
Attorneys for Appellees.